

ATTACHMENT A

UNIVERSITY OF CALIFORNIA, SAN DIEGO, SCRIPPS INSTITUTION OF OCEANOGRAPHY'S COMMENTS ON TENTATIVE ORDER NO. R9-2004-0378, NPDES PERMIT NO. CA0107239; RENEWAL OF WASTE DISCHARGE REQUIREMENTS FOR ORDER NO. 99.83

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Tentative Order No. R9-2004-0378			
1	1	Finding 1	Add at the beginning of the first paragraph, first line - <u>Since 1910</u>
2	2	Finding 8	It is Scripps understanding that the current dilution factor of two to one (2:1) applies to all constituents, not just copper.
3	2	Finding 9c	Outfall 003: Discharges approximately 140,000 to 200,000 gpd of waste seawater from the Experimental Aquarium and an additional 140,000 to 210,000 gpd from the Ring Tank Complex when it is in use.
4	3	Finding 13	Scripps requests equitable consideration before any sanctions are imposed when the intake water exceeds permit effluent limits. Therefore, prior to considering enforcement actions for violations of effluent limitations for copper or other pollutants, Scripps requests that the Regional Board consider the source of the copper or other pollutants in the effluent and ambient water quality conditions that might have contributed to the elevated concentrations.
5	6	Special Condition 1a	This paragraph provides that effective upon adoption of this Order, Scripps will comply with the Table A effluent limitations. This condition applies to waste seawater and stormwater that commingles or mixes with waste seawater from Outfalls 001 and 003 and the seawater discharges from Outfalls 004a or 004b. The State Board intended SIO to have a "reasonable time period" to comply with numeric effluent limitations that are above and beyond the current permit limits so that treatment systems can be developed to meet the new limitations. Currently, Scripps is required to achieve Table A limits for waste seawater at Outfalls 001 and 003 (not Outfalls 004a or 004b) during dry weather only (not during a storm event). Therefore, Scripps requests that this condition be revised to reflect current permit requirements and that the requirements for meeting Table A effluent limits (1) during wet weather and (2) from the

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			Outfall 004a and 004b discharge, be moved to Condition 1b which currently includes a three (3) year time period to comply with the new effluent limitations.
6	6	Special Condition 1b	Scripps requests that the Table 1 effluent limitations for discharges from Outfalls 004a and 004b and for discharges from Outfalls 001 and 003 during wet weather be moved to this condition (see comment above).
7	6	Special Condition 1b	Scripps is committed to achieving compliance with the numeric effluent limitations in the Tentative Order as soon as practicable. However, as a result of discussions with the UCSD Capital Planning staff and the Facilities, Design & Construction staff about projects that Scripps anticipates will be needed to comply with the numeric effluent limitations in the Tentative Order, we have been advised that historically such projects take four (4) to five (5) years to complete. The UCSD Capital Improvements process is lengthy due to a number of factors, including but not limited to the following: locating and securing funding, contracting, design and development, environmental review, permitting and securing approval for the project, and actual construction of the project. Attached is a copy of UCSD's "Overview of the UCSD Capital Process: Capital Project Development" that provides an outline of the process necessary to complete a capital project at UCSD (see Exhibit 1). More information is located on the Capital Planning web page at http://capital.ucsd.edu/Default.htm . As a result of discussions with the Regional Board staff, at this time Scripps is willing to reserve its request for additional time beyond three (3) years to achieve numeric effluent limitation compliance. Scripps anticipates that twelve (12) months after this Tentative Order is adopted, it will be better able to identify the specific time required to achieve numeric effluent limit compliance, and at that time it will return to the Regional Board to request appropriate adjustments, beyond the three (3) years, to the compliance time schedule.
8	12	Special Condition 2	This condition references narrative effluent limits applicable to Outfall 2. At the same time, this paragraph requires that numeric limits set out in Table A of the permit immediately apply to the discharge. This condition then sets out three tasks Scripps must perform if these limits are exceeded. SIO requests that these tasks be modified to indicate that as long as Scripps has complied with the procedures described and is implementing the revised SWMP, then Scripps does not have to repeat the

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			same procedures for continuing or recurring exceedances of the same constituents. The addition of this language is consistent with the State Board Resolution Condition 3. p.
9	13	Special Condition 3. Bacterial Characteristics	<p>The reference in this paragraph “to an area outside the zone” bounded by the shoreline and a distance of 1,000 feet from the shoreline or the 30-foot depth contour, whichever is further from the shoreline, as determined by the Regional Board, should be better defined prior to Scripps being held to bacteria sampling requirements. Further, the requirement in this same paragraph to maintain bacterial objectives in the area, “including all kelp beds” should be further defined. While Scripps understands that the inclusion of kelp beds in this condition is intended to track the language in the Ocean Plan, this condition should be clarified by making this “zone” coterminous with the boundaries of the San Diego Marine Life Refuge (the “ASBS”) to define the exact area where the kelp beds that must be monitored are located.</p> <p>Condition 3c should indicate that if the “source” of the coliform is not Scripps, then additional requirements will not be imposed on Scripps.</p> <p>Condition 3c: replace “shore sample” with “<u>surfzone sample</u>” and add “<u>consistently</u>” before “exceeds a geometric mean...”</p> <p>In the last sentence of Condition 3c, there is a requirement that the geometric mean shall be a moving average based on no less than five samples per month. Scripps recommends that this sampling period be changed from “per month” to a <u>30-day period</u></p>
10	13	Special Condition 3	<p>Scripps requests that the following be added to Special Condition 3:</p> <p>3. d. Based on the first year sample results, Regional Board staff may modify the frequency (e.g., reduce the number of months per year), or the locations (i.e., the number of monitoring stations) that Scripps will be required to sample for bacteria, excluding the three bacterial studies proposed by Scripps.</p>
11	13	Special Condition 4a	The second line add <u>a</u> before “state” and <u>member</u> after “staff”.

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12	14	Special Condition 4a	In the last sentence after: “The committee shall meet annually” add <u>to review the monitoring data, and advise the Regional Board whether natural water quality is being altered in the ASBS as a result of the UCSD/SIO discharges.</u>
13	14	Special Condition 4c	In the third line after the word “runoff” add <u>(i.e., any discharge of urban runoff to a storm drain that is not composed entirely of stormwater), except those associated with emergency fire fighting or other catastrophic events,</u> as this language is consistent with Exception Condition 3.f.
14	14	Special Condition 4d	Strike the word “sewer” from all reference to “SIO stormwater sewer system.”
15	15	Special Condition 4g	It is Scripps understanding that this condition will not apply until Natural Water Quality has been defined.
16	15	Special Condition 4i	It is Scripps understanding that the “fate of the discharge” is part of Exception Condition 3.q., not a separate study. In coordination with the SWRCB, Scripps agreed to conduct a Dilution and Dispersion study using empirical data and a model which meets the “dilution and fate of the discharge” requirement as set out in Exception Condition 3.q.
17	16	Special Condition 4k	<p>Line nine, replace “several times per day” with <u>in accordance with Table 5 below</u> and add after “other factors” a new sentence that reads; <u>Scripps may use County of San Diego bacterial monitoring data for compliance with some of Scripps bacterial monitoring obligations under this permit.</u></p> <p>Fourth line from bottom: Delete the entire sentence that starts “If frequent exceedances are found....” Scripps will discuss appropriate follow-up monitoring with the RWQCB on a case-by-case basis.</p>
Tentative Monitoring and Reporting Program No. R9-2004-0378			
18	4	B1	Scripps requests that the provision provided by the SWRCB to composite analytical results (rather than the actual samples) from Outfalls 002, 003, 004a and 004b be added here. Combining the actual samples

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			(i.e., storm water from Outfall 002 with sea water from Outfalls 004a and 004b and co-mingled seawater/storm water from Outfall 003) will make pollutant source identification impossible.
19	4	B1	<p>First paragraph:</p> <p>To increase the opportunity to successfully sample two eligible wet weather events, Scripps requests that the “twice quarterly” sampling requirement for the first year is changed to: <u>eight (8) times before 12/31/05 with no more than three (3) sample events per calendar quarter.</u></p> <p>Strike: “shall be combined as a flow weighted composite.” Scripps intends to analyze each outfall individually during the first year to evaluate potential pollutant sources.</p>
19	4	B1	<p>Page 4, second paragraph from the top:</p> <p>Clarify this paragraph to indicate that Outfall 002 should be sampled a total of four (4) times during the first year. Three (3) times during separate storm events (there must be at least 3 days of dry weather between storm events) and once during dry weather.</p>
20	4	B1	<p>The third, fourth, and sixth paragraphs from the top:</p> <p>Replace “respective tables” with <u>Exception Condition 3.n.</u></p> <p>Delete the fifth paragraph regarding Outfall 002 as it is already covered in the sixth paragraph.</p>
21	4	B1	<p>Please add a sentence to this section indicating that monitoring currently being conducted will count towards the first year’s sampling requirements.</p>
22	4	B1	<p>Fourth and sixth paragraph: Add the following language: <u>Based on the results from the sampling events during the first year, the Regional Board will determine the frequency of sampling (at a minimum annually) and the constituents to be tested during the remainder of the permit cycle, except that chronic toxicity must be tested at least twice annually.</u></p> <p>Sixth paragraph: Scripps requests that the provision provided by the SWRCB to composite analytical</p>

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			results (rather than the actual samples) from Outfalls 002, 003, 004a and 004b be added here.
23	4	B1	General comment: Safety considerations should be added to this section
24	5	Table 2	Total Residual Chlorine, Outfall 003: Revise to strike “when in use” and add <u>when mammals are present in the Ring Tank</u> . Outfall 003 is always in use because it receives the seawater discharge from the experimental aquarium, but coliform and residual chlorine are potentially an issue only when mammals are present. The proposed wording is consistent with the Exception Condition 3.r.
25	10	B2	Bacterial samples should not be combined, this would impact the true results. Revise “when the Ring Tank is in use” to <u>when mammals are present in the Ring Tank</u> in the event that Scripps decides to use the Ring tank for fish in the future.
26	13	Table 5	Scripps requests eight (8) weeks rather than four weeks after the report period for the report due dates. Analytical results for sea water discharge samples collected on 12/2/04 and analyzed for all Table B constituents (excluding toxicity) in accordance with the analytical methods required in the draft permit, were not available to Scripps until 1/24/05 (seven weeks). After receiving the analytical data from the laboratory, Scripps will need at least one week to analyze and compile the data into a report for submittal. Therefore, Scripps requests the due dates be revised to June 1, September 1, December 1, March 1, September 1, and March 1 respectively going down the column “Report Due” in Table 5.